

**THE WHITE HOUSE OFFICE
REFERRAL**

January 21, 2010

TO: ENVIRONMENTAL PROTECTION AGENCY

ACTION COMMENTS:

ACTION REQUESTED: DIRECT REPLY W/COPY

REFERRAL COMMENTS:

DESCRIPTION OF INCOMING:

ID: 1023208

MEDIA: LETTER

DOCUMENT DATE: December 23, 2009

TO: PRESIDENT OBAMA

FROM: THE HONORABLE EVAN BAYH
UNITED STATES SENATE
WASHINGTON, DC 20510

SUBJECT: EXPRESSES CONCERN ABOUT THE ENVIRONMENTAL PROTECTION
AGENCY'S INTENT TO ISSUE NEW RULES CONCERNING COAL ASH

COMMENTS:

**PROMPT ACTION IS ESSENTIAL -- IF REQUIRED ACTION HAS NOT BEEN TAKEN WITHIN 9 WORKING DAYS OF RECEIPT,
UNLESS OTHERWISE STATED, PLEASE TELEPHONE THE UNDERSIGNED AT (202) 456-2590.**

**RETURN ORIGINAL CORRESPONDENCE, WORKSHEET AND COPY OF RESPONSE (OR DRAFT) TO: DOCUMENT TRACKING UNIT,
ROOM 85, OFFICE OF RECORDS MANAGEMENT - THE WHITE HOUSE, 20500
FAX A COPY OF REPOSE TO: (202) 456-5881**

**THE WHITE HOUSE
DOCUMENT MANAGEMENT AND
TRACKING WORKSHEET**



DATE RECEIVED: January 11, 2010

CASE ID: 1023208

NAME OF CORRESPONDENT: THE HONORABLE EVAN BAYH

SUBJECT: EXPRESSES CONCERN ABOUT THE ENVIRONMENTAL PROTECTION AGENCY'S INTENT TO ISSUE NEW RULES CONCERNING COAL ASH

ROUTE TO: AGENCY/OFFICE	(STAFF NAME)	ACTION		DISPOSITION	
		CODE	DATE	TYPE RESPONSE	CODE DATE COMPLETED
LEGISLATIVE AFFAIRS	PHIL SCHILIRO	ORG	01/12/2010		

ACTION COMMENTS:

✓ *EPA*

R 1/21/00

ACTION COMMENTS:

ACTION COMMENTS:

ACTION COMMENTS:

ACTION COMMENTS:

COMMENTS: 26 ADDL SIGNEES

MEDIA TYPE: LETTER

USER CODE:

ACTION CODES	DISPOSITION		
	TYPE RESPONSE	DISPOSITION CODES	COMPLETED DATE
A = APPROPRIATE ACTION B = RESEARCH AND REPORT BACK D = DRAFT RESPONSE I = INFO COPY/NO ACT NECESSARY R = DIRECT REPLY W/ COPY ORG = ORIGINATING OFFICE	INITIALS OF SIGNER (W.H. STAFF) NRN = NO RESPONSE NEEDED OTBE = OVERTAKEN BY EVENTS	A = ANSWERED OR ACKNOWLEDGED C = CLOSED X = INTERIM REPLY	DATE OF ACKNOWLEDGEMENT OR CLOSEOUT DATE (MM/DD/YY)

**KEEP THIS WORKSHEET ATTACHED TO THE ORIGINAL INCOMING LETTER AT ALL TIMES
REFER QUESTIONS TO DOCUMENT TRACKING UNIT (202)-456-2590**

SEND ROUTING UPDATES AND COMPLETED RECORDS TO OFFICE OF RECORDS MANAGEMENT - DOCUMENT TRACKING UNIT ROOM 85, EEOB.

**Scanned By
ORM**

United States Senate

WASHINGTON, DC 20510

1023208

December 23, 2009

President Barack Obama
The White House
1600 Pennsylvania Ave NW
Washington, DC 20500

Dear Mr. President:

The U.S. Environmental Protection Agency (EPA) has indicated its intent to issue new rules in the near future that could have far-reaching impacts on U.S. jobs and the rates consumers pay for electricity. Sometime in the next few months, EPA is expected to recommend whether coal ash—a byproduct of using coal to generate electricity—should be regulated as “hazardous” or “non-hazardous” waste.

The agency appears to be leaning in the wrong direction—toward a recommendation that coal ash be handled as a hazardous material. This would pull the rug out from under the many U.S. businesses that rely on coal combustion material—about 45 percent of which is reused or recycled in a variety of everyday applications—and force unnecessarily high costs on utilities and their customers. This is the wrong way to go, particularly as the nation is just now beginning to pull itself out of an economic nose dive.

In 2000, after a thorough examination of the characteristics of coal combustion materials, the Clinton administration determined that coal ash should not be managed as a hazardous substance. Nearly a decade later, there is tremendous support for adhering to that determination. Dozens of state policymakers, including groups like the National Governors Association and the Environmental Council of the States, along with numerous state environmental protection agencies, also oppose hazardous waste regulation. More than three dozen industry groups and individual companies—those whose businesses rely on coal combustion products—have made it clear that hazardous waste regulation is unnecessary and would have a devastating impact on the many beneficial uses of coal ash.

But many of these organizations, along with the nation’s utilities, support federal regulation of coal ash as a non-hazardous waste. This approach would establish uniform management practices and protect public health and the environment, while maintaining the many beneficial uses of coal combustion products.

Last year, approximately 45 percent of the coal combustion products produced by utilities were recycled through a wide range of industrial, manufacturing and agricultural applications: to make concrete, to strengthen road beds, to use as roofing material, to stabilize waste, to manufacture wall board, and to add as a soil additive for agricultural purposes.

President Barack Obama
Page 2 of 2

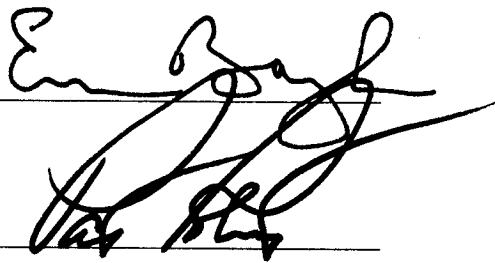
The annual value to the U.S. economy of coal ash recycling is estimated to be as high as \$8 billion. If coal ash is designated hazardous in any manner, businesses may be forced to end recycling options and may shut down operations.

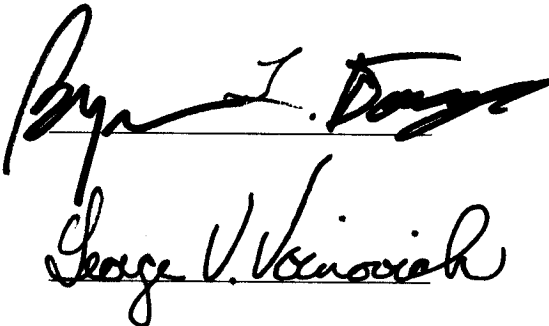
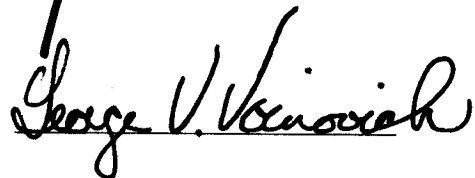
With a de facto moratorium on recycling, utilities would be required to alter and build additional facilities to manage the increased volume of ash. This would dramatically increase power plants' operating costs, which would be passed on to customers. Price increases likely would be most acute in the industrial heartland and other parts of the country where coal is the predominant source of electric generation. Many of these areas already are stressed from the recession and job losses.

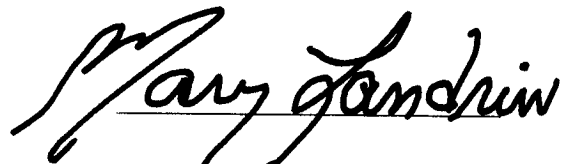
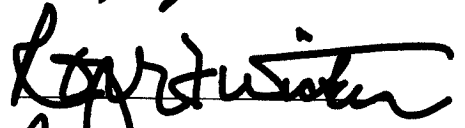
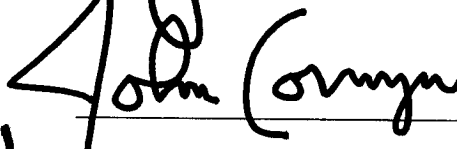
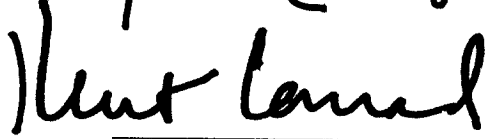
In light of the ash spill disaster at the Tennessee Valley Authority's Kingston facility, we certainly understand the EPA raising concerns about the handling and storage of coal combustion by-products. We believe that appropriate precautions should be taken by all responsible operators, that parties who have violated regulations should be held accountable, and that the public health and welfare should be protected.

However, the electric power sector is one of the most heavily regulated industries in the United States. Each regulation comes with a cost, and in most cases those costs are simply a necessary part of doing business. In this instance, however, the EPA needs to heed the recommendations of state policymakers and environmental officials, and the businesses that rely on coal ash and regulate coal ash as a non-hazardous material. Any change to this designation could prove hazardous to U.S. businesses and jobs, could result in sharply higher electricity prices for many consumers in these difficult economic times, and could result in fewer reductions of greenhouse gases through recycling outlets.

Sincerely,


Eric Lipton


Ryan L. Dwyer

George V. Venios


Mary Gendrin

Rep. Kristin

John Cornyn

Kent Conrad

AM F. [unclear]

Care McCasill

to Benjamin [unclear]

Shirley [unclear]

Paul [unclear]

Sally Chaudhri

Jan [unclear]

John [unclear]

Jim Webb

[unclear]

Lamar Alexander

Blanche L. Lincoln

John Barrasso

to [unclear]

Jim Bunning

Mark R. Warner

Jim [unclear]

Art Bond

Justin [unclear]

Evan Bayh
Pat Roberts
Byron Dorgan
George Voinovich
Mary Landrieu
Roger Wicker
John Cornyn
Sam Brownback
Claire McCaskill
E. Benjiman Nelson
Robert F. Bennett
Thad Cochran
Saxby Chambliss
James Risch
John Thune
Jim Webb
Richard Burr
Lamar Alexander
Blanche Lambert Lincoln
John Barrasso
Jon Tester
Jim Bunning
Mark Warner
Kit Bond
James Inhofe